

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION AT CLEVELAND

UNITED STATES OF AMERICA, CASE NO. 5:20-cr-114

Plaintiff,

vs.

Thursday, January 6, 2022

LARRIEN BROWN-AUSTIN,

Defendant.

TRANSCRIPT OF **CHANGE OF PLEA PROCEEDINGS**
HELD VIA VIDEOCONFERENCE
BEFORE THE HONORABLE PAMELA A. BARKER
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: Carol M. Skutnik,
Assistant United States Attorney

For the Defendant: Mark R. DeVan, Esq.

Official Court Reporter: Lance A. Boardman, RDR, CRR
United States District Court
801 West Superior Avenue
Court Reporters 7-189
Cleveland, Ohio 44113
216.357.7019

Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription.

1 (On the record at 10:01 a.m.)

2 THE COURT: We are on the record in the matter
3 captioned the United States of America vs. Larrien
4 Brown-Austin. This is Case Number 5:20-cr-114-1.

5 Present by way of videoconferencing are the defendant,
6 Larrien Brown-Austin, his counsel, Mr. Mark DeVan, and
7 United States Assistant Attorney Carol Skutnik.

8 We are conducting this hearing by way of
9 videoconferencing.

10 Mr. DeVan, did you speak with your client,
11 Mr. Brown-Austin, concerning his right to be present in the
12 courtroom for purposes of this hearing today and did he
13 consent to having it take place by way of videoconferencing?

14 MR. DeVAN: I did. However, this morning he
15 indicated to me he thought we were going to be present in
16 the courtroom. So I don't know if it's a matter of
17 confusion or someone may have overlooked something, but
18 perhaps the Court wants to examine him in that regard.

19 THE COURT: All right. Thank you, Mr. DeVan.

20 Mr. Brown-Austin, you do have the right to be present
21 in the courtroom for purposes of this hearing, but you also
22 have the ability to consent to having it take place by way
23 of videoconferencing pursuant to a standing order that has
24 been issued by this Court.

25 Did Mr. DeVan explain to you your right to be present

1 in the courtroom, Mr. Brown-Austin?

2 THE DEFENDANT: He said he did, but I don't
3 remember that, Your Honor. I would like to be in the
4 courtroom, please.

5 THE COURT: You would like to be present in
6 the courtroom?

7 Do you understand -- I don't know what the specific
8 protocols are now for the facility where you are being
9 detained, but do you understand that to come to the
10 courtroom may entail, then, you being quarantined upon
11 return because of the COVID-19 pandemic that continues to
12 rage?

13 THE DEFENDANT: Yes, ma'am. I don't mind.
14 But, I mean -- I think maybe the prosecutor may -- is there
15 something wrong?

16 Mr. DeVan, is there something wrong with that?

17 MR. DeVAN: No, there's nothing wrong at all,
18 Larrien.

19 THE DEFENDANT: I don't know, I saw the
20 prosecutor shake her head and then Mr. DeVan looked down, so
21 I'm not sure. Am I doing something wrong?

22 MR. DeVAN: No, you're not doing anything
23 wrong, Larrien. The problem is we've had this discussion,
24 and now we're going around in circles.

25 Now, it's very simple. The Court wants to know

1 whether you consent to go by video. If you don't, we
2 don't --

3 THE DEFENDANT: I don't mind being
4 quarantined. I don't mind being quarantined. I
5 just heard -- the only reason why, if you want to know why I
6 want to go by court, is because I've heard rumors -- I've
7 never done this before, but I've heard rumors that if the
8 inmates are talking, that -- and there's something that the
9 lawyer doesn't want the inmate to say or the prosecutor
10 doesn't want the inmate to say, then it's easy to press
11 "mute" and you're muted. Then the stenographer, he's not
12 able to do his job or something. And that's the only reason
13 why.

14 THE COURT: All right. Let me explain,
15 Mr. Brown-Austin. It's not a matter of muting. That's not
16 accomplished. The only time that a hearing or any portion
17 thereof is not on the record per the court reporter taking
18 everything down is if you request the opportunity to speak
19 with your lawyer privately to confer with him about any
20 questions that you have or any issues you want to discuss
21 with him. Then the Court will put you and Mr. DeVan only in
22 the breakout room, what we call a breakout room, to allow
23 you to discuss any questions or issues privately.
24 Otherwise, everything by way of videoconferencing is taken
25 down on the record. The breakout room is just to allow you

1 to confer privately and discuss any issues privately outside
2 of the hearing of anyone else with your lawyer.

3 THE DEFENDANT: Yes, ma'am. Thank you. I
4 appreciate you for explaining that to me. I didn't
5 understand that. Thank you.

6 Is it possible I can take a moment with my lawyer in
7 the breakout room? Because I have two questions to ask him.
8 Is it possible that I can do that, ma'am?

9 THE COURT: Yes. In fact, we can put you in
10 that breakout room right now. And again, that means that no
11 one else can or will hear your discussion with your lawyer.

12 So Mr. DeVan, are you prepared, then, to go forward
13 with a discussion with Mr. Brown-Austin in a breakout room?

14 MR. DeVAN: Yes, ma'am.

15 (Attorney-client conference in breakout room.)

16 THE COURT: All right. Mr. Larrien
17 Brown-Austin is back and Mr. DeVan as well.

18 Mr. DeVan, what would you like to say, sir?

19 MR. DeVAN: A request, Your Honor, is
20 regarding in the written plea agreement there is a phrase at
21 the end of a sentence that my client takes issue with
22 because it might make him look as though he informed on his
23 father, which he has not. And when we get to that in the
24 factual basis for the plea agreement, I will request that
25 that phrase be stricken. It is at -- it is on page 8, and

1 it is paragraph 22b, the last phrase of the last sentence of
2 the paragraph b that Larry Brown-Austin -- reading it
3 paraphrased, that Larry Brown-Austin supplied Larrien
4 Brown-Austin with heroin.

5 My client's concern is that it might make it look as
6 though he has informed on his father as being a supplier of
7 drugs, which he did not.

8 THE COURT: All right. Ms. Skutnik, anything
9 to add with regard to that request before we actually get
10 into the plea?

11 MS. SKUTNIK: Well, Your Honor, we would
12 object to that request. Those are the facts of the case as
13 established during the investigation. There is no
14 indication in that paragraph that that information came from
15 Larrien Brown-Austin. We actually did a full investigation
16 in this case, and that's what the facts reflect.

17 THE COURT: Correct. There's no reference to
18 Mr. Larrien Brown-Austin providing that information.

19 Would you agree, Mr. DeVan?

20 MR. DeVAN: That's correct. That's not what
21 the paragraph says.

22 THE COURT: All right. And so the Government
23 would oppose or does oppose removing that last sentence in
24 paragraph b -- or paragraph 22b.

25 Any response, Mr. DeVan? I understand --

1 MR. DeVAN: The only thing I would say is that
2 it doesn't change the substance of the plea to remove it.
3 And if it expedites this matter and facilitates a resolution
4 here, I don't know that it would make any substantive change
5 in the plea agreement whatsoever. It would simply satisfy
6 my client's understanding of the facts based on his
7 knowledge of it and having the firsthand knowledge of who
8 did what during this case.

9 THE COURT: Well, are you saying then that
10 absent removing that sentence from paragraph 22b, your
11 client, Mr. Larrien Brown-Austin, will not plead?

12 MR. DeVAN: At this point, Your Honor, I don't
13 know what he will do.

14 THE COURT: All right. I'll inquire, then, of
15 Mr. Larrien Brown-Austin.

16 You've heard the discussion, Mr. Brown-Austin,
17 correct?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: All right. And you understand
20 that although you requested that that sentence set forth in
21 paragraph 22b, specifically the last sentence, you've
22 requested that that be deleted or removed from the plea
23 agreement, you've heard AUSA Skutnik object to removing it
24 because it sets forth a fact or facts that were gathered
25 from the investigation. And her position and agreement by

1 your attorney is that it doesn't in fact say that you
2 provided that information.

3 What's your position? Are you saying that you are not
4 going to enter into a change of plea if that sentence is not
5 removed?

6 THE DEFENDANT: Ma'am, I'm not saying that,
7 Your Honor. What I am saying is that I have to sign my name
8 to that statement. And once I put my initials by that
9 statement, then that statement verifies that I also agree to
10 that statement, which means that I co-signed for that
11 statement saying that I put my stamp, my word -- I'm putting
12 my life on the line for that statement. And that's what I'm
13 saying, ma'am.

14 THE COURT: All right. I understand that. I
15 understand.

16 I have the written plea agreement in front of me
17 consisting of 13 pages that you signed it looks like on
18 12/30/2021. You did initial the bottom of each page
19 signifying that you read each page, understood the
20 information contained thereon.

21 But again, my question goes to if that is not removed,
22 are you then not going to enter into the change of plea?

23 THE DEFENDANT: I'm still going to enter into
24 the change of plea, Your Honor. I was just asking, please,
25 could you strike that one sentence. It was something that I

1 admit I did overlook because of the way of the wording. It
2 was wonderful wording on how it was worded, ma'am, and I did
3 not pay attention to that and I apologize.

4 THE COURT: That's all right. But you're
5 saying that you will still enter into the change of plea
6 even if it's still included in the plea agreement, and
7 Ms. Skutnik has noted her objection to removing it.

8 So if I don't remove it though, you are still going to
9 enter into the change of plea; is that correct?

10 THE DEFENDANT: Yes, ma'am. I would have no
11 choice. Yes, ma'am.

12 THE COURT: Ms. Skutnik, anything to add in
13 that regard?

14 MS. SKUTNIK: Your Honor, first of all, the
15 Government will not remove that fact from the plea
16 agreement. And that's because the paragraph says, and the
17 requirement under Criminal Rule 11 is, that these are the
18 facts the Government could prove, the Government could prove
19 if this case were to proceed to trial.

20 The other thing that I would note, Your Honor, is that
21 the defendant's father, Larry Brown-Austin, has pled guilty
22 in this case and admitted in his change of plea that he
23 provided drugs in this case. So that set of facts is also
24 in the father's change of plea as well.

25 And so we're prepared to move forward and Mr. Brown is

1 prepared to move forward, but we won't be removing that from
2 the plea agreement narrative.

3 THE COURT: All right. Thank you.

4 Mr. DeVan, any final comments on this issue?

5 MR. DeVAN: Nothing further, Judge.

6 THE COURT: All right. Thank you. We will
7 continue.

8 Now, just to clarify again, Mr. Brown-Austin, you are
9 consenting to having this hearing take place by way of
10 videoconferencing; is that correct?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: All right. Thank you.

13 The hearing then can and will proceed by way of
14 videoconferencing.

15 Mr. DeVan, will you please state the purpose of
16 Mr. Larrien Brown-Austin's appearance in this hearing today.

17 MR. DeVAN: The purpose of his appearing today
18 by videoconference, Your Honor, is to enter a plea agreement
19 in this matter pursuant to Rule 11(c)(1)(C) of the Federal
20 Rules of Criminal Procedure.

21 THE COURT: All right. Thank you.

22 And AUSA Skutnik, I just want to make sure the victims
23 have been notified of this hearing. Is that correct?

24 MS. SKUTNIK: They have, Your Honor.

25 THE COURT: All right. And they've been

1 notified of the plea agreement; is that correct?

2 MS. SKUTNIK: I did meet and have a meeting
3 with both victims and reviewed the plea agreement with them.
4 They've been fully notified of the plea, yes.

5 THE COURT: And of their right to be present
6 for purposes of this hearing; is that correct?

7 MS. SKUTNIK: Yes, Your Honor. And we have
8 provided the information for today's hearing to them if they
9 chose to sign in or listen.

10 THE COURT: All right. Thank you very much.

11 Now, Mr. Brown-Austin, before I may accept a plea of
12 guilty from you, I must ask you a series of questions. If
13 you have any questions at any time throughout this hearing,
14 please do not hesitate to let me know that because I will
15 give you the opportunity to speak with your lawyer.

16 Will you do that, sir?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Also, and as you've already done,
19 if you want to speak with your lawyer, you may do so by way
20 of a breakout room session. So if you would like to speak
21 with your lawyer, I just want to confirm with you that we
22 will put you in a breakout room so that you can confer with
23 him privately.

24 Do you understand that, sir?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: All right. Thank you.

2 Kim, would you please administer the oath to
3 Mr. Brown-Austin.

4 (The defendant was sworn.)

5 THE COURT: All right. Thank you.

6 Mr. Brown-Austin, do you understand that you are now
7 under oath, and if you answer any of my questions falsely,
8 your answers may later be used against you in another
9 prosecution for perjury or making a false statement?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: All right. Thank you.

12 What is your full name, sir?

13 THE DEFENDANT: Larrien Assante [sic]
14 Brown-Austin.

15 THE COURT: And how old are you?

16 THE DEFENDANT: Today's the 7th or the 6th?

17 THE COURT: Today is January 6, 2022.

18 THE DEFENDANT: Then I'm still 36.

19 THE COURT: All right. And how far did you go
20 in school?

21 THE DEFENDANT: I went to college.

22 THE COURT: Are you able, then, to read and
23 write the English language?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Are you a citizen of the United

1 States?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Are you presently under the care
4 of any mental health provider?

5 THE DEFENDANT: I am.

6 THE COURT: And what are you being treated
7 for?

8 THE DEFENDANT: For posttraumatic stress
9 syndrome.

10 THE COURT: Okay. Posttraumatic stress
11 disorder or syndrome?

12 THE DEFENDANT: Yes, ma'am, disorder. PTSD.

13 THE COURT: Okay, PTSD.

14 And are you on any medication to treat that condition?

15 THE DEFENDANT: Yes, ma'am, I am.

16 THE COURT: What medication are you taking?

17 THE DEFENDANT: It's a -- they just switched
18 the medication, ma'am, and I can't recall exactly the long
19 name of the medication.

20 THE COURT: All right.

21 THE DEFENDANT: They just switched it like --
22 I can't recall the name of it, but it is for PTSD.

23 And there's also -- I have a seizure disorder as well
24 as -- I have a seizure disorder as well, but for mental
25 health it's for PTSD, and I've been labeled schizoaffective.

1 THE COURT: All right. Now, you indicated
2 that you're on a medication for the PTSD, the name of which
3 you can't remember right now. You've also indicated that
4 you have a seizure disorder. Are you on any medication for
5 that seizure disorder?

6 THE DEFENDANT: Yes, ma'am, 1,000 milligrams
7 of Depakote.

8 THE COURT: All right. Now, are these
9 conditions, either the PTSD or seizure disorder, or the
10 medications you're taking for those conditions, having any
11 impact on your ability to understand what is happening
12 today?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: Are the medications that you are
15 taking for those conditions impairing your ability to make a
16 decision as to whether it is in your best interest to enter
17 into a change of plea?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: And Mr. DeVan, do you believe that
20 your client is competent?

21 MR. DeVAN: Yes.

22 THE COURT: Thank you.

23 Mr. Brown-Austin, have you been treated recently for
24 any addiction to narcotic drugs of any kind?

25 THE DEFENDANT: Not recently. Not for two

1 years.

2 THE COURT: Two years ago?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right. Are you presently
5 under the influence of any alcohol or narcotic drug?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: Mr. Brown-Austin, have you
8 received a copy of the indictment pending against you in
9 this case, that is, the original charge made against you in
10 this case?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: And, sir, have you fully discussed
13 with your counsel, Mr. DeVan, the charge to which you are
14 expected to plead guilty, specifically, conspiracy to commit
15 sex trafficking by force, threats of force, fraud, or
16 coercion, in violation of Title 18 United States Code
17 Section 1594(c)?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Have you fully discussed with your
20 counsel, Mr. DeVan, the case in general?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And are you fully satisfied with
23 the counsel, representation, and advice given to you in this
24 case by your lawyer, Mr. DeVan?

25 THE DEFENDANT: I'm satisfied with Mr. DeVan.

1 There was only one quirk where I sent you a letter, and -- I
2 sent you a letter, Miss Pamela Baker -- Barker, I apologize,
3 and the letter was -- I don't know if you recall getting the
4 letter. It wasn't about my defense because he's excellent,
5 and I am satisfied with him. It was just on the *United*
6 *States vs. Henning* [ph], if there was a case -- where I was
7 asking for the case be dismissed based off of the speedy
8 trial rights. But my lawyer, he felt that it would be a
9 frivolous motion. And that would be the only concern I had.
10 But besides that, my attorney is excellent, five star.

11 THE COURT: All right. So you are satisfied
12 with the counsel, representation, and advice that's been
13 given to you in this matter by Mr. DeVan, correct?

14 THE DEFENDANT: Because I'm not a lawyer, of
15 course, I don't know how -- yes, I'm satisfied.

16 THE COURT: All right. Mr. Brown-Austin, you
17 do have certain basic Constitutional rights that I am about
18 to explain to you. These are the rights that you are giving
19 up by pleading guilty.

20 Do you understand that you have a right to a trial by
21 jury?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you give up that right?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand that you have a

1 right to have your case tried to this Court with the consent
2 of the Government and the approval of the Court?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you give up that right?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that at trial,
7 you would have the right to see, hear, confront, and
8 cross-examine all of the Government's witnesses?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you give up that right?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that at trial,
13 you would have the right to compulsory process, which is the
14 right to compel or subpoena witnesses to testify in your
15 defense and/or require witnesses to produce documents that
16 might help your case?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Do you give up that right?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that at trial,
21 you would have the right to testify in your own defense?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you give up that right?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you understand that at trial,

1 you would have the right to not testify and that no one
2 would be allowed to comment on the fact that you did not
3 testify?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Do you give up that right?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Do you understand that at trial,
8 you would be presumed innocent, that you would not have to
9 put on evidence or prove anything, and that you would have
10 the right to require the Government to prove your guilt
11 beyond a reasonable doubt?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Do you give up that right?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that you have
16 the right to an attorney at trial and throughout all
17 proceedings, either retained or appointed if you cannot
18 afford one?

19 THE DEFENDANT: Yes.

20 THE COURT: And do you understand,
21 Mr. Brown-Austin, that if you plead guilty, it is a complete
22 admission of guilt, and if I accept your plea, I will find
23 you guilty without a trial?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: All right. Mr. Brown-Austin, I do

1 have before me a written plea agreement, consisting of a
2 total of 13 pages, with the last or 13th page constituting
3 the signature page.

4 Now, Mr. DeVan, were all formal plea offers by the
5 Government conveyed to your client, Mr. Brown-Austin?

6 MR. DeVAN: I'm sorry, Judge, the transmission
7 broke up.

8 What did you ask? I apologize.

9 THE COURT: No problem.

10 Were all formal plea offers by the Government conveyed
11 to your client by you?

12 MR. DeVAN: Yes, yes.

13 THE COURT: All right. Thank you.

14 Now, Mr. Brown-Austin, I am looking at the last page
15 of the plea agreement. Again, that's the signature page, 13
16 of 13.

17 Did you sign and place the date of 12/30/2021 on the
18 last page of this written plea agreement?

19 THE DEFENDANT: Yes, ma'am, I did.

20 THE COURT: And did you sign it after reading
21 it and discussing it completely with your lawyer, Mr. DeVan?

22 THE DEFENDANT: Yes, ma'am, I did.

23 THE COURT: And did you place your initials on
24 the bottom of each of the 13 pages, signifying that you read
25 each page and discussed it with your lawyer and understood

1 the information contained on each page?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And Mr. Brown-Austin, do you
4 understand all of the terms of the written plea agreement?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And do you believe that the
7 written plea agreement represents in its entirety the
8 agreement that you have with the Government?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Did anyone make any promise or
11 assurance that is not in the plea agreement to persuade you
12 to accept this agreement?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: And did anyone threaten you in any
15 way to persuade you to accept this agreement?

16 Could you please speak up just to make sure I can hear
17 you, Mr. Brown-Austin?

18 THE DEFENDANT: I apologize, Your Honor.

19 No, ma'am.

20 THE COURT: All right. Thank you.

21 Based upon your testimony thus far, I am not going to
22 read this plea agreement verbatim or word for word, but I am
23 going to ask you about some terms or provisions contained in
24 the agreement.

25 Do you understand that the terms or provisions that I

1 do not ask you about are still very important and are part
2 of the agreement?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right. First, I would like to
5 advise you, Mr. Brown-Austin, of the statutory maximum
6 penalties associated with the offense to which you are
7 expected to plead guilty. Those are as follows:

8 The maximum term of imprisonment by statute is life;
9 the maximum statutory fine is \$250,000; and the maximum
10 period of supervised release is your lifetime.

11 Do you understand, sir, the statutory maximum
12 penalties associated with the offense to which you are
13 expected to plead guilty?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Also, I would like to advise you
16 of the minimum penalties associated with the offense to
17 which you are expected to plead guilty.

18 The minimum term of imprisonment is any term of years;
19 the minimum period of supervised release is five years.

20 Do you understand that, sir?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And, sir, do you understand that
23 the sentence for the offense to which you're expected to
24 plead guilty may not be satisfied by a term of probation and
25 must include some form -- or some period, I should say, of

1 imprisonment?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And do you also understand, as
4 we'll discuss more fully below with reference to paragraph
5 14, that you and the Government are agreeing under this
6 agreement that you must be sentenced to a term of 180 months
7 of imprisonment?

8 THE DEFENDANT: Yes. Yes, ma'am.

9 THE COURT: And do you understand that if you
10 plead guilty to the offense to which you are expected to
11 plead guilty, that you will be required to pay a mandatory
12 special assessment of \$100?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Do you understand that if you
15 plead guilty, I may order you to pay the cost of prosecution
16 and sentence, including but not limited to imprisonment,
17 community confinement, home detention, probation, and/or
18 supervised release?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: And, sir, do you understand that
21 the Court may order you to pay restitution as a condition of
22 the sentence, probation, and/or supervised release?

23 THE DEFENDANT: Yes. Yes, ma'am.

24 THE COURT: And, sir, do you understand that
25 specifically, pursuant to paragraph 24 of the written plea

1 agreement, that you are agreeing to make full restitution as
2 ordered by this Court pursuant to Title 18 United States
3 Code Sections 3336(a) and 1593, on a joint and several
4 basis, payable immediately on such terms and conditions as
5 this Court may impose, for the losses caused by your
6 relevant conduct in this case as defined under guidelines
7 section 1B1.3?

8 THE DEFENDANT: I will. Yes, ma'am, I will.

9 THE COURT: And do you also understand that
10 pursuant to the plea agreement, you are agreeing not to seek
11 the discharge of any restitution obligation, in whole or in
12 part, in any present or future bankruptcy proceedings?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And Mr. Brown-Austin, do you
15 understand that if you violate any term or condition of
16 supervised release, such violation could result in a period
17 of incarceration or other additional penalty as imposed by
18 the Court?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: And do you understand that in some
21 circumstances, the combined term of imprisonment under the
22 initial sentence and additional period of incarceration for
23 any such violation could exceed the statutory maximum term?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you understand that you may

1 also be required to forfeit any property used to commit this
2 offense or any property that represents the proceeds of this
3 offense?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Do you understand that sentencing
6 does rest within the discretion of the Court, that federal
7 sentencing law requires the Court to impose a sentence which
8 is sufficient but not greater than necessary to comply with
9 the purposes of Title 18 United States Code Section 3553(a),
10 and that in so doing, the Court must consider or take into
11 account a number of factors?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: And do you understand that those
14 factors are the statutory penalty, the seriousness of the
15 offense, your personal history and characteristics,
16 deterrence, protection of the public, rehabilitation,
17 disparity in sentences, and the advisory United States
18 Sentencing Guidelines in effect at the time of sentencing,
19 and that in determining the sentence, the Court could depart
20 or vary from the advisory guideline range?

21 THE DEFENDANT: Yes. Yes, ma'am.

22 THE COURT: And have you and your lawyer,
23 Mr. DeVan, talked about how the advisory sentencing
24 guidelines might apply to your case?

25 THE DEFENDANT: I believe so, yes, ma'am.

1 THE COURT: And do you understand that parole
2 has been abolished and that when upon conviction you are
3 sentenced to prison, you will not be released on parole?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: At this time, Mr. Brown-Austin, I
6 would like to advise you of the essential elements of the
7 offense to which you're expected to plead guilty or what the
8 Government would be required to prove beyond a reasonable
9 doubt --

10 Ms. Skutnik?

11 MS. SKUTNIK: I'm sorry, Judge. I was waiting
12 for you to finish your sentence.

13 Your Honor, before we go too far past this in terms of
14 potential consequences, could the Court also address with
15 Mr. Brown in paragraph 4 the JVTA special assessment that he
16 may be subject to?

17 THE COURT: I will be getting to that.

18 MS. SKUTNIK: I'm so sorry, Judge. I thought
19 we had moved on from potential consequences. Of course you
20 will cover it.

21 THE COURT: No, I was just taking things from
22 the plea agreement as they arose in the context of what I
23 was advising him, but I will certainly address everything
24 that I believe is pertinent in the plea agreement in terms
25 of consequences.

1 MS. SKUTNIK: Please forgive me for my
2 interruption, Judge.

3 THE COURT: That's all right.

4 Again, Mr. Brown-Austin, I'm going to advise you of
5 the essential elements of the offense or what the Government
6 would be required to prove at trial by evidence beyond a
7 reasonable doubt.

8 Now, the elements the offense of conspiracy to commit
9 sex trafficking by force, threats of force, fraud, or
10 coercion, in violation of Title 18 United States Code
11 Sections 1594(c) and 1591(a)(1), are that you knowingly and
12 intentionally did combine, conspire, confederate, and agree
13 with another to recruit, entice, harbor, transport, provide,
14 obtain, advertise, maintain, patronize, or solicit by any
15 means a person in or affecting interstate or foreign
16 commerce, knowing or in reckless disregard of the fact that
17 means of force, threats of force, fraud, coercion, or any
18 combination of such means would be used to cause the person
19 to engage in a commercial sex act.

20 Mr. Brown-Austin, do you understand the essential
21 elements of the offense to which you're expected to plead
22 guilty or what the Government would have to prove beyond a
23 reasonable doubt if the case proceeded to trial?

24 THE DEFENDANT: I understand, yes, ma'am.

25 THE COURT: All right. And AUSA Skutnik,

1 would you please place on the record the defendant's conduct
2 and a factual basis for the guilty plea.

3 MS. SKUTNIK: Yes, Your Honor.

4 Your Honor, the following facts set forth are true and
5 can be established beyond a reasonable doubt if the case
6 were to proceed to trial, and they are as follows:

7 In or about June of 2018, and continuing through on or
8 about August 20 of 2018, in the Northern District of Ohio
9 Eastern Division, the defendants Larrien Brown-Austin, a/k/a
10 Chico, Larry Brown-Austin, and Shannon Marzano, and others,
11 did knowingly and intentionally combine, conspire,
12 confederate, and agree with each other and with others to
13 commit offenses against the United States as set forth in 18
14 United States Code Section 1591(a)(1) and (b)(1).

15 Further, in 2018, Larry Brown-Austin owned a
16 single-family house located at 2032 24th Street Northeast in
17 Canton, Ohio, hereafter referred to as "the residence." And
18 this allowed his son, Larrien Brown-Austin, a/k/a Chico, to
19 live there.

20 Larry Brown-Austin frequented the residence and at
21 times stayed in his bedroom on the first floor. Larry
22 Brown-Austin also brought groceries and supplies to the
23 residence during the time frame in the indictment and
24 supplied Larrien Brown-Austin with heroin.

25 Marzano and several drug-addicted men and women also

1 frequented the residence and occasionally lived at the
2 residence in the summer of 2018.

3 Larrien Brown-Austin ran the residence and was known
4 to the people that frequented the residence as Chico.

5 In June of 2018, Marzano met SD after SD became
6 homeless. Marzano arranged with Larrien Brown-Austin for
7 SD, a heroin addict, to live at the residence and engage in
8 sexual acts with customers for money. On the day SD moved
9 into the residence, Marzano caused an ad for SD to be posted
10 on Skip the Games, a known prostitution website.

11 Almost immediately, Larrien Brown-Austin demanded a
12 cut of the proceeds received from SD's commercial sex
13 appointments. Thereafter, Larrien Brown-Austin supplied SD
14 with heroin and then demanded all the money made by SD from
15 her commercial sex dates.

16 Skip the Games is a website that is hosted outside the
17 United States and offers Internet connections for dating.
18 It is widely used as a means to advertise for commercial
19 sex.

20 Shortly after moving into the residence, SD met ML,
21 who was homeless, and invited her to come to the residence.

22 Larrien Brown-Austin agreed to let ML stay at the
23 residence and gave her methamphetamine and heroin.
24 Thereafter, Larrien Brown-Austin informed ML that she owed
25 him money for living at the residence and for drugs and that

1 she had to perform commercial sex acts to pay him.

2 Thereafter, SD and ML were not allowed to leave the
3 residence.

4 Beginning in approximately mid June of 2018, and
5 continuing through on or about August 20, 2018, Larrien
6 Brown-Austin and Marzano caused several ads to be posted on
7 Skip the Games, a known prostitution site, for SD and ML.
8 These ads resulted in numerous commercial sex appointments
9 with SD and ML at the residence, as well as some outcalls.

10 In addition, Marzano and Larrien Brown-Austin
11 purchased methamphetamine with money derived from commercial
12 sex acts and distributed it to SD, ML, and others at the
13 residence.

14 Larrien Brown-Austin, Marzano, and others used
15 multiple cell phones with Internet capability, including an
16 LG-GSM smartphone, to communicate with commercial sex act
17 customers. They would use text messaging, e-mail, and
18 various mobile phone applications that utilized the Internet
19 to communicate with prospective customers on behalf of SD
20 and ML.

21 Marzano and Larrien Brown-Austin also used a tracking
22 application on their cell phones known as Life360 to keep
23 track of the whereabouts of SD and others when they left the
24 residence to engage in commercial sex acts.

25 From June 2018 through August 20, 2018, Larrien

1 Brown-Austin kept a firearm hidden in the residence and used
2 the firearm to threaten SD and others. In addition, Larrien
3 Brown-Austin physically assaulted SD when she tried to run
4 away from the residence. He also threatened to assault SD
5 if she did not want to go on a date, did not provide the
6 money from the customer before the commercial sex act began,
7 or if he thought SD withheld money from an appointment.

8 Larrien Brown-Austin was violent and threatened others
9 in the residence in the presence of Marzano, SD, and ML. He
10 once beat another woman in the presence of Marzano and SD
11 until the woman's head was swollen so bad she looked like a,
12 quote, Conehead.

13 SD was addicted to heroin and would get violently ill
14 if she went into withdrawal. Larrien Brown-Austin knew this
15 and would control SD by providing or withholding heroin and
16 other illegal narcotics to make sure she performed multiple
17 commercial sex appointments every day.

18 Further, Larrien Brown-Austin required SD and ML to
19 participate in group sex acts with him that were recorded
20 using cellular devices.

21 Thank you, Your Honor.

22 THE COURT: Thank you.

23 And Mr. Brown-Austin, do you agree that the facts
24 constituting the crime charged that AUSA Skutnik just placed
25 on the record are true and could be established beyond a

1 reasonable doubt if the case proceeded to trial?

2 THE DEFENDANT: Yes. Yes, ma'am.

3 THE COURT: And Mr. Brown-Austin, do you
4 understand that I may accept the plea agreement, reject it,
5 or defer a decision until I have reviewed the presentence
6 report?

7 THE DEFENDANT: I understand, yes, ma'am.

8 THE COURT: And do you understand that if I
9 choose not to follow the terms of the plea agreement, I will
10 give you the opportunity to withdraw your plea of guilty,
11 and that if you choose not to withdraw your plea, I may
12 impose a more severe sentence without being bound by the
13 plea agreement or the specific terms rejected by the Court?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And do you understand that the
16 agreed disposition will be included in the judgment?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Now, I want to go over additional
19 provisions of the plea agreement, specifically as it relates
20 to, as Ms. Skutnik pointed out, your -- the fact that you
21 are subject to an additional assessment under the Justice
22 For Victims of Trafficking Act, Title 18 United States Code
23 Section 3014, in the amount of \$5,000 unless the Court
24 determines that you are indigent.

25 Do you understand that?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Also, pursuant to the plea
3 agreement, Counts 2 and 3 of the indictment against you will
4 be dismissed at the time of sentencing.

5 Do you understand that?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: And you understand that the plea
8 agreement also indicates that the United States Attorney's
9 Office will not bring any other criminal charges against you
10 for violations known to the United States Attorney's Office
11 on the date of the execution of the plea agreement,
12 including potential charges for possessing contraband while
13 incarcerated at NEOCC?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And do you understand that
16 pursuant to paragraph 14 -- or according to paragraph 14 and
17 pursuant to Rule 11(c)(1)(C), and after considering the
18 factors in Title 18 United States Code Section 3553(a), you
19 and the Government agree that the appropriate disposition of
20 this case is for you to receive a sentence that includes a
21 specific term of 180 months of imprisonment?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: All right. And do you understand,
24 sir, that pursuant to the plea agreement, you and the
25 Government are agreeing that using the current advisory

1 sentencing guidelines manual, the computations set forth in
2 paragraph 16 represent the correct applicable offense level?
3 And that is a base offense level of 34, a two-level increase
4 for a multiple-count adjustment for two victims, and another
5 increase for repeat and dangerous sex offender against
6 minors, for a total of 37 total offense level before
7 acceptance of responsibility?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: And do you understand, too, that
10 pursuant to the plea agreement, you and the Government agree
11 that no other specific offense characteristics, guideline
12 adjustments, or guideline departures apply?

13 THE DEFENDANT: I apologize. I didn't hear --
14 something broke up. I apologize, ma'am.

15 THE COURT: All right. I'll say it again.

16 Do you understand that pursuant to the written plea
17 agreement, you and the Government agree that no other
18 specific offense characteristics, guideline adjustments, or
19 guideline departures apply?

20 THE DEFENDANT: Yes. Yes, ma'am.

21 THE COURT: And do you understand that
22 pursuant to the plea agreement, the United States Attorney's
23 Office is agreeing to recommend a three-level reduction for
24 acceptance of responsibility provided your conduct continues
25 to reflect your acceptance of responsibility?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: And do you understand, though,
3 that it will be up to the Court at the time of sentencing to
4 determine whether a reduction for acceptance of
5 responsibility is appropriate?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: And do you understand, sir, that
8 you and the Government have no agreement about the criminal
9 history category applicable in this case, and that the
10 criminal history category will be determined by the Court
11 after the completion of a presentence investigation by the
12 United States Probation Office?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And do you also understand,
15 though, that pursuant to -- or under United States
16 Sentencing Guidelines Section 4B1.5(a)(2), your criminal
17 history category shall be the greater of the criminal
18 history category determined under Chapter 4 part A or
19 Criminal History Category V?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: And do you also understand that
22 following your conviction for a violation of Title 18 United
23 States Code Section 1594(c), conspiracy to commit sex
24 trafficking by force, threats of force, fraud, or coercion,
25 in violation of 1591(a)(1), you will be required to register

1 as a sex offender pursuant to the Sex Offender Registration
2 and Notification Act, and that's 34 United States Code
3 20911(5), generally.

4 Do you understand that?

5 THE DEFENDANT: Yes, ma'am, I do.

6 THE COURT: All right. And do you also
7 understand that you have rights in limited circumstances to
8 appeal the conviction or sentence in this case and to
9 challenge the conviction or sentence collaterally through a
10 postconviction proceeding?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Do you understand, though, that
13 pursuant to the plea agreement, you are voluntarily waiving
14 those rights except for the right to appeal --

15 THE DEFENDANT: Bless you.

16 THE COURT: I'm sorry?

17 THE DEFENDANT: I thought you sneezed. I said
18 "bless you." I'm sorry.

19 THE COURT: I'm sorry. I coughed. Thank you.

20 Let me start over again.

21 Do you understand that pursuant to the plea agreement,
22 you are voluntarily waiving those rights except for the
23 following:

24 The right to appeal any punishment in excess of the
25 statutory maximum or any prison sentence to the extent it

1 exceeds the maximum of the advisory sentencing guidelines
2 range found by the Court in accordance with the sentencing
3 stipulations and computations in the agreement using the
4 criminal history category found applicable by the Court?

5 THE DEFENDANT: Yes.

6 THE COURT: And, sir, do you understand that
7 you are not barred from perfecting any legal remedies you
8 may otherwise have on appeal or collateral attack with
9 respect to claims of ineffective assistance of counsel or
10 prosecutorial misconduct?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: And do you also understand that
13 pursuant to the plea agreement, you are waiving all defenses
14 based on the statute of limitations with respect to any
15 prosecution that is not already time barred by the
16 applicable statute of limitations on the date that you
17 signed the agreement and that is commenced within one year
18 after any of the following events:

19 You fail to plead guilty at this proceeding or the
20 Court refuses to accept a guilty plea by you pursuant to the
21 agreement; the Court permits you to withdraw a guilty plea
22 entered pursuant to this agreement or otherwise vacates such
23 a guilty plea, or; the conviction obtained pursuant to this
24 agreement is vacated, overturned, or otherwise set aside?

25 THE DEFENDANT: Yes. Yes, ma'am.

1 THE COURT: And do you understand that the
2 waiver of the statute of limitations is effective
3 immediately upon your signing of the agreement and is not
4 conditioned upon the approval of this agreement by the
5 Court?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. Now, AUSA Skutnik, is
8 there anything else that you would like to add or have me
9 advise Mr. Brown-Austin?

10 MS. SKUTNIK: No, Your Honor. Thank you very
11 much.

12 THE COURT: Thank you.

13 Mr. DeVan, is there anything else that you would like
14 to add or have me advise your client?

15 MR. DeVAN: Nothing as to the plea, Your
16 Honor.

17 THE COURT: Thank you.

18 And Mr. Brown-Austin, do you need any more time to
19 consult with your lawyer?

20 THE DEFENDANT: Maybe two minutes. I don't
21 want to take up a lot of time. Just two minutes.

22 THE COURT: All right. We'll put you in the
23 breakout room again.

24 Kim?

25 (Attorney-client conference in breakout room.)

1 THE COURT: All right. Mr. Brown-Austin, did
2 you have sufficient time to confer with Mr. DeVan as you
3 requested?

4 THE DEFENDANT: I apologize, yes, ma'am, for
5 the interruption. Yes, ma'am.

6 THE COURT: All right. Thank you.

7 Now then, sir, how do you plead, then, to Count 1,
8 conspiracy to commit sex trafficking by force, threats of
9 force, fraud, or coercion, in violation of Title 18 United
10 States Code Section 1594(c)? Guilty or not guilty?

11 THE DEFENDANT: Guilty, Your Honor.

12 THE COURT: All right. It is the finding of
13 the Court in the case of the United States of America vs.
14 Larrien Brown-Austin that the defendant is fully competent
15 and capable of entering an informed plea, that the defendant
16 is aware of the nature of the charge and the consequences of
17 the plea, and that the plea of guilty is a knowing and
18 voluntary plea supported by an independent basis in fact
19 containing each of the essential elements of the offense.

20 The plea is therefore accepted, and the defendant is
21 now adjudged guilty of that offense.

22 Mr. Brown-Austin, a written presentence report will be
23 prepared by the Probation Office to assist me in sentencing.
24 You will be asked to give information for the report, and
25 your attorney will be present if you wish. I will permit

1 both you and your counsel to read the presentence report and
2 file any objections to it before the sentencing hearing.

3 You and your counsel shall have an opportunity to
4 speak on your behalf at the sentencing hearing, and the
5 victims shall be afforded an opportunity to be heard at the
6 sentencing hearing as well.

7 The defendant is referred to the Probation Office for
8 a presentence investigation and report.

9 The sentencing is set for May 11, 2022, at 9:00 a.m.

10 The defendant is detained pending sentencing.

11 Anything further, AUSA Skutnik?

12 MS. SKUTNIK: No. Thank you, Your Honor.

13 THE COURT: And Mr. DeVan, anything further?

14 MR. DeVAN: Yes, Your Honor. I do have one
15 request.

16 My client, as you know, has been in custody for nearly
17 two years during this pandemic, and of course many of us --
18 there's no way around the fact that this pandemic has held
19 up many of these proceedings.

20 Is it possible to expedite the presentence report in
21 order to get him sentenced sooner rather than later in this
22 matter?

23 THE COURT: Actually, no. We are told by the
24 Probation Office that they are overwhelmed, and it's a
25 minimum of about 16 weeks before we can get -- have a

1 presentence report.

2 Kim, any updates from the Probation Office that you
3 know about? But that's my understanding.

4 THE COURTROOM DEPUTY: No, Your Honor, you're
5 correct.

6 THE COURT: All right. Sorry, but we really
7 don't have any control over that in terms of what they tell
8 us the time they need to properly complete that presentence
9 report.

10 But I understand the issue and the concern, but
11 nonetheless, I have to deny that request.

12 MR. DeVAN: Thank you, Your Honor.

13 THE COURT: All right. Thank you all. Take
14 care.

15 (Proceedings adjourned at 11:18 a.m.)

16 * * * * *

17 **C E R T I F I C A T E**

18

19 I certify that the foregoing is a correct transcript
20 of the record of proceedings in the above-entitled matter
21 prepared from my stenotype notes.

22

23 /s/ Lance A. Boardman
24 LANCE A. BOARDMAN, RDR, CRR

December 7, 2022
DATE

25